IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3870 OF 2006

Sharp Metal Printers Pvt.Ltd..... Applicant

versus

The National Trading Corporation..... Respondent.

Shri Niranjan Mundargi for the applicant
Shri A.S. Khandeparkar i/b Anilkumar Joshi for the respondent no.1.
Shri A.S.Shitole APP for Respondent no.2.

CORAM; A.P. DESHPANDE, J.
DATED; 07TH DECEMBER, 2007

P.C.;

1. This is an application for special leave to file an appeal against acquittal under section 378(4) of Cr.P.C. The applicant who is original complainant instituted a complaint under section 138 of N.I.Act. Perusal of the rozanama reveals that the complaint was fixed for verification in September 2001. Thereafter the matter came to be adjourned for about 20 occasions and on most of the occasions, the complainant has remained absent. The complainant had remained present on two occasions, one when his verification statement was recorded, and on one more occasion. On account of repeated absence of the complainant the trial court has dismissed the complaint by having recourse to the powers under section 256 of Cr.P.C. and acquitted the

accused. The case of the applicant is that his advocate informed him that he need not remain present and that the advocate would intimate the complainant as and when he is expected to remain present before the court. It appears that the applicant has also proceeded against the concerned advocate. The notice issued to the advocate is placed on record. But curiously enough the same does not make a mention about the advocate having informed the complainant not to attend the case. Be it as it may, after giving various opportunities, the trial court has proceeded to dismiss the complaint. It is not a fit case to grant special leave to file an appeal against acquittal. The complaint, on account of apathy on the part of the complainant, was pending for last about six years with no progress whatsoever. In the result, the application is rejected.

....